

No. 86.

Reply of City of Chicago  
(Richardson) for Petitioner  
Filed Dec. 15, 1899.

Office Supreme Court U. S.  
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CLERK

In the Supreme Court of the United States.

OCTOBER TERM, 1899.

ELLIS H. ROBERTS, TREASURER OF THE  
United States, petitioner,

v.

THE UNITED STATES EX REL. MARIE  
A. Valentine.

No. 86.

REPLY BRIEF FOR PETITIONER.

# In the Supreme Court of the United States.

OCTOBER TERM, 1899.

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ELLIS H. ROBERTS, TREASURER OF THE United States, petitioner, <i>v.</i> THE UNITED STATES EX REL. MARIE A. Valentine.	} No. 86.
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## REPLY BRIEF FOR PETITIONER.

### I.

There are no new questions raised here for the first time. The return of the writ of certiorari shows that the complete transcript of the record in the court of appeals in the District of Columbia was sent up to this court. All the questions of the supreme court of the District of Columbia and the court of appeals were raised upon demurrer to the return of the Treasurer to the petition for a writ of mandamus. The return of the Treasurer to the petition for the writ of mandamus was:

Comes now the defendant and for cause why the writ of mandamus should not issue, as in and by the petition in the above-entitled cause prayed, shows

that the certain board of audit certificates, so called, in the said petition mentioned, namely, the certificates numbered 8879 and 19429, were not redeemed by him or any person holding the office of Treasurer of the United States at any time, and that the only moneys paid by any Treasurer of the United States on account of any of the matters or things in the said petition mentioned as having relation to the said certificates, or either of them, were paid upon certain judgments of the Court of Claims of the United States, as appears by the transcript from the records of the Treasury Department of the United States, hereto annexed and made part hereof, and that the defendant has no official knowledge nor has he any official record in his office showing or tending to show upon what claim or claims either of the said judgments was based. (Tr., p. 10.)

This return states exactly what he did as treasurer and what the records of his office showed were done by his predecessors. Confined to the strictest requirements of the petition and return, it can not be seen that new questions are raised here.

## II.

“Counsel for the relator and the treasurer well knew that the relator was the owner of all of the interests by virtue of due assignments. The courts below say: Had his denial of payment been founded on the insufficiency thereof after due inquiry, the writ of mandamus would not lie. Had that objection been set up, the relator might have satisfied it by supplementary proof or else by proceedings at law for the establishment of her claim as against Evans and immediate assignees; but it was

not raised either directly or by imputation in the written statements of the grounds upon which payment was refused, nor does the return of the defendant to the order to show cause deny the genuineness or regularity of the relator's claim as assignee; hence it must be regarded as admitted."

The petitioner raises no objection to the genuineness and regularity of the assignments. The objection is that these assignments did not cover those certificates. The assignments are as follows:

*Exhibit.—Assignments 1 and 2. (Tr., pp. 8 and 9.)*

Know all men by these presents that we, Edward J. Stellwagen, Thomas M. Gale, and George E. Hamilton, as executors of the last will and testament of Thomas J. Fisher, deceased, late of the District of Columbia, in consideration of the request of Lillian Evans and Charles E. Evans, and in pursuance of an order of the supreme court of the District of Columbia, sitting at a special term for the transaction of probate business on the 15th day of September, 1890, have assigned, transferred, and set over, and by these presents do assign, transfer, and set over, unto Marcus W. Robinson all the right, title, and interest which said Thomas J. Fisher had, and all which we, as his executors, now have or may at any time be entitled to, in and to all claims against the District of Columbia arising out of the contracts made by said District of Columbia, or the Commissioners or board of public works thereof, with Charles E. Evans, or the Evans Concrete Pavement Company, and now or heretofore the subject of action against the District of Columbia, in the name of or for the use of said Thomas J. Fisher, as assignee of said Charles

*Evans*, to have and to hold the same unto the said Marcus W. Robinson, his executors, administrators, and assigns, to his and their use; hereby constituting him and them our attorney and attorneys, irrevocable, to collect and receive the same in our names or otherwise, but at his own costs and expenses, saving us harmless from all charges and liabilities of any kind in respect thereto.

And we hereby agree to execute any further instruments or conveyances necessary or proper for the further effectuating of the said assignment and transfer of any legal interest in said claims or their proceeds.

EDWARD J. STELLWAGEN,  
THOMAS M. GALE,  
GEORGE E. HAMILTON,

*Executors of the last will and testament  
of Thomas J. Fisher.*

DISTRICT OF COLUMBIA, ss:

On this — day of September, 1890, before me personally came Edward J. Stellwagen, Thomas M. Gale, and George E. Hamilton, to me known and known to be the persons mentioned in and who executed the foregoing instrument, and they thereupon acknowledged to me, jointly and severally, that they executed the same as the executors of the will of Thomas J. Fisher, deceased.

[Notarial seal.] THOMAS J. MALONE,  
*Notary Public, D. C.*

Know all men by these presents, that I, Marcus W. Robinson, of Brooklyn, New York, for good and valuable consideration to me paid by Marie A. Valentine, of the city of Brooklyn, the receipt of which is acknowledged, have assigned, transferred, and set over unto said Marie A. Valentine all the claims, demands, and interests of every nature,

whether in action or otherwise, arising out of the contracts made by the District of Columbia with Charles E. Evans or the Evans Concrete Co., and heretofore the subject of action against the District of Columbia in the name of or for the use of one Thomas J. Fisher, being all the claims assigned to me by the executors of said Thomas J. Fisher, September 15, 1890, to have and to hold the same to the said Marie A. Valentine, her executors, administrators, and assigns forever.

Witness my hand and seal this first day of January, 1892.

MARCUS W. ROBINSON.

STATE OF NEW YORK,  
*County of Kings, ss:*

On this 1st day of January, 1892, before me personally appeared Marcus W. Robinson, to me personally known and known to be the person mentioned in and who executed the foregoing instrument, and he thereupon acknowledged to me that he executed the same.

But these certificates (admitting for that purpose the allegations of the relator's petition) were merged in judgments of the Court of Claims rendered on June 12, 1890, in favor of David M. Davis and Edward J. Stellwagen, Gale and Hamilton, executors of Fisher, deceased, assignee of Charles E. Evans.

DAVID M. DAVIS	}	246.
<i>v.</i>		
THE DISTRICT OF COLUMBIA.		

At a Court of Claims held in the city of Washington on the 12th day of June, A. D. 1890, judgment was ordered to be entered up as follows:

The court, upon due consideration of the premises,

find in favor of the claimant, and do order, adjudge, and decree that the said David M. Davis, claimant, do have and recover in the manner provided by the act of June 16, 1880, chapter 243, in the sum of nine hundred dollars (\$900) upon debts of the District of Columbia due and payable August 1, 1874, within the meaning of the sixth section of said act.

A true copy of record.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Washington this 12th day of June, A. D. 1890.

[SEAL.]

JOHN RANDOLPH,  
*Ass't Clerk, Court of Claims.*

EDWARD J. STELLWAGEN, THOMAS M. Gale, and George E. Hamilton, executors of Thomas J. Fisher, deceased, assignee of Charles E. Evans,	} 246.
<i>v.</i>	

#### THE DISTRICT OF COLUMBIA.

At a Court of Claims held in the city of Washington on the 12th day of June, A. D. 1890, judgment was ordered to be entered up as follows:

The court, upon due consideration of the premises, find in favor of the claimants, and do order, adjudge, and decree that the said Edward J. Stellwagen, Thomas M. Gale, and George E. Hamilton, executors of Thomas J. Fisher, assignee of Charles E. Evans, do have and recover, in the manner provided by the act of June 16, 1880, chapter 243, the sum of nineteen thousand six hundred and twenty-five 65/100 dollars upon debts of the District of Columbia due and payable August 1, 1874, within the meaning of the sixth section of said act.

A true copy of record.

In testimony whereof I have hereunto set my

hand and affixed the seal of said court, at Washington, this 12th day of June, A. D. 1890.

[SEAL.]

JOHN RANDOLPH,  
*Ass't Clerk, Court of Claims.*

These judgments were paid September 12, 1890, as follows [Tr., pp. 11, 12]:

WASHINGTON, D. C., *September 12, 1890.*

Received from the Treasurer U. S. his check, No. 84233, payable to the order of David M. Davis, for fourteen hundred twenty-nine 29/100 dollars (\$1,429.29), in full satisfaction and payment of the principal, with interest thereon, of judgment of the U. S. Court of Claims in cause No. 246, David M. Davis v. The District of Columbia.

Principal of judgment, cause No. 246 . . .	\$900.00
Interest from August 1, 1874, to September 11, 1890, at 3.65 % . . . . .	529.29
	<hr/>
	1,429.29

GEORGE A. KING,  
*Attorney of Record.*

WASHINGTON, D. C., *September 12, 1890.*

Received from the Treasurer U. S. two checks, as follows: No. 84235, for eighteen thousand six hundred sixty-seven 49/100 dollars (\$18,667.49), and No. 84236, for twelve thousand five hundred x/100 dollars (\$12,500.x), both payable to the order of Edward J. Stellwagen, Thomas M. Gale, and George E. Hamilton, executors of Thomas J. Fisher, deceased, assignees of Charles E. Evans, in full satisfaction and payment of the principal, with interest thereon, of judgment of the U. S. Court of Claims



in cause No. 246, Edward J. Stellwagen et al. vs.  
The District of Columbia.

Principal of judgment, cause No. 246. \$19,625.65  
Interest from Aug. 1, 1874, to Sept. 11,  
1890, at 3.65% ..... 11,541.84

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31,167.49

B. E. VALENTINE,  
*Att'y of Record.*

Now the return of the treasurer is explicit as to his own knowledge and the records of his office upon these points. It was subsequent to these transactions that any assignments were made. The assignment by the executors of Fisher, the first assignee, must have been made after the payments of the judgments. This assignment was to one Marcus W. Robinson. It is not dated, but in it is recited that it was made pursuant to an order of the probate court of September 15, 1890, which date is repeated in the following assignment.

Robinson's assignment to this relator was not made until January 1, 1892.

Under these assignments and these facts how could this relator ever have been an assignee under the act of 1894? It has always been insisted upon by the Treasurer that the term, "the assignees" in the act of August 13, 1894, must mean assignees at the time of the redemption. The context, "owners, holders, or assignees of all board of audit certificates redeemed," clearly shows this.

At the time of the execution of the assignment to Robinson there were no certificates in the possession of the executors of Fisher turned over to Robinson and

which could, under existing statutes, have been redeemed by the then Treasurer. The time for their presentation for redemption had already passed. Besides this, the terms of the assignment from Fisher's executors to Robinson, taking into consideration the date of the assignment, clearly exclude these certificates from inclusion in that paper.

### III.

These certificates never could have been duly presented for redemption. As originally issued they showed upon their face that there had been a certain amount of contract work done by Evans & Co. for which he never was entitled to any credit, but they were never delivered to Evans & Co. because of the unsettled and contradicted accounts between those contractors and the District of Columbia. They were held, therefore, to await a proper and definite settlement of all these accounts. And although it is stated with much particularity in the petition of the relator that demand was made for the redemption of these certificates by Fisher, the assignee, before the act of June, 1880, yet Fisher could not be held to be the owner or holder of such certificates. If he had been such, it may be possible that he could then have had allowed a writ of mandamus to compel their redemption under section 9 of that statute.

But he elected to bring suit against the District of Columbia on all the claims, amounting to several hundreds of thousands of dollars, in which were included these two certificates. The terms of that suit and its conditions and circumstances and compromises are fully set out in the statements of the case.

## IV.

These certificates could not be presented for redemption under the act of 1880, nor the act of July 5, 1884, prescribing a term of limitation. As we have said, they were not the property of Fisher, and were in no sense the character of certificates contemplated by the act of 1880.

It is beyond dispute that the certificates were not redeemed under the provisions of section 9 of the act of June 16, 1880, and within the limitation made by the act of July 25, 1884. No matter what may be the technical form of the allegations of the petition for mandamus, could they as a matter of fact have been presented for redemption under those statutes, by the holder or owner? Who was the holder or owner? They had never been delivered to Evans or any assignee of him. It is true they were in the possession of the then Treasurer; but they were not subject to control of anyone but the District Commissioners. They were not, in any sense, in the condition of the certificates referred to in the statute. *If* Fisher, as assignee of Evans, was entitled to their possession for the purpose of presentation for redemption, he could have obtained that possession by a proper legal proceeding. The mere demand for their conversion into 3.65 bonds gave no authority to the Treasurer to redeem them, nor did it alter the situation of the securities.

Fisher, as assignee of Evans, then brought his suit against the District for several hundred thousand dollars, in which was included these certificates. (Tr., pp. 2, 4.)

This suit was compromised June 9, 1890, and the certificates delivered to Fisher's attorney, who presented them to the *then* Treasurer for payment, which was refused.

If the theory and contestation of the relator is correct, Fisher could *then* have compelled the Treasurer to redeem these certificates. None dreamed of such a proceeding, because of the limitation statute of 1884.

Fisher returned to the Court of Claims, was permitted to amend his petition there, striking out all the numerous claims except the certificates alone, for the amount of which he was given judgment. (Tr., 5.) Now, this amount bore interest from August 1, 1874, to September 11, 1890, at 3.65 per cent. This interest was computed for a period more than five years after the time within which the certificates had to be presented for redemption. The judgments were paid (Tr., 11, 12), as we have seen. It is true that the principal of these judgments represented the face amounts of the two certificates; but still, they were judgments rendered on a compromise for stated sums. Besides, only one of them was in favor of the executors of Fisher.

All this was in 1890. The return to the petition for mandamus is explicit as to the records of the judgments and payments.

Certainly these certificates were not *redeemed* under the act of 1880. Whatever may be claimed as to the purpose of the act of August 13, 1894, providing for the payment of this interest, payment of this judgment of the Court of Claims, under the circumstances, does not comply with the requirements of "redeeming."

The statute is called general and remedial. It may be remedial in the general use of that term; it is not remedial in the legal sense. The language of the act is peculiar: "To pay the residue of 2.35 per centum per annum of unpaid legal rates of interest due upon said certificates," etc. Strictly, there was no unpaid legal rate of interest due. What was *meant* by legal rate of interest was undoubtedly the rate of interest that judgments, decrees, etc., should bear in the District of Columbia, as provided by statute (Rev. Stat. Dist. Col., sec. 713). But there is no provision of law making these certificates bear that rate of interest. On the contrary, section 7 of the act of 1874 expressly provides that the bonds into which these certificates could be converted should bear 3.65 per cent.

And when the officers of the Treasury came to construe the words "accrued interest," in the ninth section of the act of 1880—the "redeeming section"—after much doubt and hesitation they resolved and acted upon the construction by allowing interest on the bonds exchanged for the certificates, computed from the date of the certificates, and thus paid the accrued interest on the certificates.

As there was no limitation in this act of 1880, and it became advisable to retire these certificates, the statute of limitations of 1884 was passed.

This was the condition when the act of 1894 was passed. This act clearly provides (disregarding the phraseology) for the payment of an additional 2.65 per cent on a certain class of certificates which had been redeemed with interest at the Treasury. If more interest was *due* upon them, that could have been recovered

by suit under the first section of the act of 1880. Fourteen years elapsed before the additional interest was given. It can be considered in no other light than as a bounty. Examination of the statutes above cited shows this. Anyway, the Treasurer was bound by the terms of the statute. He could not construe "redeem" to mean payment. If the statute gave a right to holders of certificates which had not been actually redeemed under section 9 of the act of June 16, 1880, this was a matter for judicial construction. If parties in that condition, and there are notoriously outstanding certificates which had not been redeemed (see act March 3, 1899, 30 Stat., 1383), have no remedy by action in the courts, they must go to Congress, which has given the relief to a certain defined class of holders.

In this connection there is a consideration which should not be overlooked. These certificates were presented by the attorney of Fisher's executors after their surrender by the District Commissioners on June 9, 1890, to the Treasurer for redemption and met with refusal. He then took his judgment. There is some correspondence in the record, pages 22, 23, 24. The matters therein referred to appear never to have been acted on.

If the relator ever had any right to those certificates, and thereby to this additional interest, that right became hers on the passage of the act, August 13, 1894. But, according to the allegations of her petition (Tr., p. 6, par. xxii, and p. 9), she did not make demand for the interest until October, 1897. It is true the Treasurer bases his refusal upon the grounds that neither of the

certificates was redeemed by the Treasurer and were not in his possession; and that the judgments of the Court of Claims, referred to by relator, did not state they were in lieu of or upon debts of the District of Columbia represented by board of audit certificates. Shortly after the writ of mandamus was applied for. We think the petition and return in the mandamus proceedings fairly show that the action of the different Treasurers during these times was substantially the same. Certainly if the relator was entitled to a mandamus at all she could have obtained it from another and different Treasurer than the present one. She had no right to delay, whether that former Treasurer refused or not (which is not disclosed in the record). That delay in the application for the writ was more than three years. If the relator had been entitled to an action to recover this amount, the statute of limitations would have prevented her from bringing it at the time she applied for this writ of mandamus.

Although this was not set up as a defense in the court below, as these amounts are to be paid by the Treasurer out of funds provided by the United States as well as the District of Columbia, and the facts appear upon the record, it ought to have a bearing upon the right to issue this writ against the present Treasurer, who was not in office at the time of the passage of the act of 1894, and who becomes responsible individually for costs if the writ proceeds against him.

In view of the foregoing suggestions we have little to add to what was said in our former brief upon the contention that the act of 1894 directed the Treasurer to

perform a merely ministerial act. The construction of the acts of 1880 and of 1894 were required of him; and he acted after the exercise of his best judgment. We have argued that he was clearly correct in that construction. But whether the court would agree with him or not, if the law were properly before them, they have said they would not review his decision. The decision was made by him in his capacity as Treasurer, made, for all purposes, commissioner of the sinking fund, disbursing the moneys of the United States and the District of Columbia. There was no special or extra official for him to perform.

The doctrines as to the issuance of this writ in cases like the one at bar were clearly summarized in the late case of *United States ex rel The International Contracting Company v. Lamont* (128 U. S., 303) by Mr. Justice White, delivering the opinion of the court, as follows:

Mandamus will only lie to enforce a ministerial duty, as contradistinguished from a duty which is merely discretionary. The duty to be enforced by mandamus must not only be merely ministerial, but it must be a duty which exists at the time when the application for the mandamus is made. The obligation must be both peremptory and plainly defined.

We have attached hereto copies of the statutes whose examination is rendered necessary by the action of the court below.

ROBERT A. HOWARD,

*United States Special Assistant Attorney.*

JOHN K. RICHARDS,

*Solicitor-General.*



## APPENDIX.

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AN ACT for the government of the District of Columbia, and for other purposes. Approved June 20, 1878 (18 Stat., 116).

\* \* \* \* \*

SEC. 2. That the President of the United States, by and with the advice and consent of the Senate, is hereby authorized to appoint a commission, consisting of three persons, who shall, until otherwise provided by law, exercise all the power and authority now lawfully vested in the governor or board of public works of said District, except as hereinafter limited; and shall be subject to all the restrictions and limitations now imposed by law on said governor or board; and shall have power to apply the taxes or other revenues of said District to the payment of the current expenses thereof, to the support of the public schools, the fire department, and the police, and to the payment of the debts of said District secured by a pledge of the securities of said District or board of public works as collateral, and also to the payment of debts due to laborers and employees of the District and board of public works; and for that purpose shall take possession and supervision of all the offices, books, papers, records, moneys, credits, securities, assets, and accounts belonging or appertaining to the business or interests of the government of the District of Columbia and the board of public works, and exercise the power and authority aforesaid; but said commission, in the exercise of

such power or authority, shall make no contract, nor incur any obligation other than such contracts and obligations as may be necessary to the faithful administration of the valid laws enacted for the government of said District, to the execution of existing legal obligations and contracts, and to the protection or preservation of improvements existing, or commenced and not completed, at the time of the passage of this act. \* \* \*

SEC. 6. That it shall be the duty of the First Comptroller of the Treasury and the Second Comptroller of the Treasury of the United States, who are hereby constituted a board of audit, to examine and audit for settlement all the unfunded or floating debt of the District of Columbia and of the board of public works, hereinafter specified, namely, first, the debt evidenced by sewer certificates; secondly, the debt purporting to be evidenced and ascertained by certificates of the auditor of the board of public works; thirdly, the debt evidenced by the certificates of the auditor and the comptroller of the District of Columbia; fourthly, claims existing or hereafter created for which no evidence of indebtedness has been issued, arising out of contracts, written or oral, made by the board of public works; fifthly, claims for which no evidence of indebtedness has been issued, arising out of contracts, written or oral, made by or on behalf of the District of Columbia; sixthly, all claims for private property taken by the board of public works from the avenues, streets, and alleys of the cities of Washington and Georgetown; and seventhly, all unadjusted claims for damages that may have been presented to the board of public works, pursuant to an act of the legislative assembly of the District of Columbia, entitled "An act providing for the payment of damages sustained by reason of public improvements or repairs," approved June twentieth, eighteen hundred and seventy-two, which last-named claims shall severally be examined and audited without regard to any examination heretofore made; and shall make a detailed and

tabular statement of all claims presented, the persons or corporations owning the same, and the amount found to be due on account of each; together with a tabular statement of the funded debt of the District of Columbia and of the cities of Washington and Georgetown of every kind and character whatsoever, giving the date of issue, time of maturity, and the rate of interest. And it shall further be the duty of said board to ascertain the amount of sewer tax or assessment paid by any person, persons, or corporation, under the act of the legislative assembly of said District, entitled "An act creating drainage and sewerage sections in the cities of Washington and Georgetown, in the District of Columbia, and providing for the payment of the construction of sewers and drains therein by assessments, and issuing certificates therefor," approved the twenty-sixth day of June, eighteen hundred and seventy-three, and to prepare a tabulated statement thereof. *Said board of audit shall also issue to each claimant a certificate, signed by each of said board and countersigned by the Comptroller of said District, stating the amount found to be due to each and on what account; \* \* \*.*

SEC. 7. That the sinking-fund commissioners of said District are hereby continued; and it shall be the duty of said sinking-fund commissioners to cause bonds of the District of Columbia to be prepared in sums of fifty and five hundred dollars, bearing date August first, eighteen hundred and seventy-four, payable fifty years after date, bearing interest at the rate of three and sixty-five hundredths per cent per annum, payable semiannually, to be signed by the secretary and the treasurer of said sinking-fund commissioners and countersigned by the comptroller of said District, and sealed as the board may direct; which bonds shall be exempt from taxation by Federal, State, or municipal authority, engraved and printed at the expense of the District of Columbia, and in form not inconsistent herewith. And the faith of the United

States is hereby pledged that the United States will, by proper proportional appropriations as contemplated in this act, and by causing to be levied upon the property within said District such taxes as will do so provide the revenues necessary to pay the interest on said bonds as the same may become due and payable, and create a sinking fund for the payment of the principal thereof at maturity. Said bonds shall be numbered consecutively, and registered in the office of the comptroller of said District, and shall also be registered in the office of the Register of the Treasury of the United States, for which last-named registration the Secretary of the Treasury shall make such provision as may be necessary. And said commissioners shall use all necessary means for the prevention of any unauthorized or fraudulent issue of any such bonds. And the said sinking-fund commissioners are hereby authorized to exchange said bonds at par for like sums of any class of indebtedness in the preceding section of this act named, including sewer taxes or assessments paid, evidenced by certificates of the auditing board provided for in this act.

## II.

JOINT RESOLUTION approved March 14, 1876 (19 Stat., 211).

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Commissioners of the District of Columbia are hereby directed to transfer to the Treasurer of the United States, for the payment of the interest, due the first of February, eighteen hundred and seventy-six, on the bonds of said District, issued under the provisions of the act of Congress approved June twentieth, eighteen hundred and seventy-four, entitled "An act for the government of the District of Columbia, and for other purposes," the sum necessary to pay the same from any unexpended appropriations heretofore made by Congress, or from any

revenues derived from taxation on the property of said District of Columbia, subject to the requisition of said Commissioners, excluding funds raised for the support of public schools: *Provided*, That any further issue of three-sixty-five bonds under or by virtue of said act of Congress approved June twentieth, eighteen hundred and seventy-four, is hereby prohibited: *And provided*, That the said Commissioners are here directed to discontinue all work and labor on streets, avenues, bridges, sewers, canals, and structures of every kind the payment for which is to be made in three-sixty-five bonds of the District of Columbia: *And provided further*, That so much of the sixth section of the said act of June twentieth, eighteen hundred and seventy-four, as directs and requires the First Comptroller of the Treasury and the Second Comptroller of the Treasury to audit and adjust the floating and unfunded debt of the District of Columbia, and issue certificates therefor, and of the joint resolution continuing the board of audit to examine and audit the unfunded or floating debt of the District of Columbia, approved December twenty-first, eighteen hundred and seventy-four, and of the act to extend the time within which the board of audit of the District of Columbia may receive, audit, and allow certain claims that have never been presented to said board, approved March third, eighteen hundred and seventy-five, be, and the same is hereby, repealed.

\* \* \*

### III.

AN ACT providing a permanent form of government for the District of Columbia, approved June 11, 1878 (c. 180, 20 St., 102).

\* \* \* \* \*

SEC. 4. That the said Commissioners may, by general regulations consistent with the act of Congress of March third, eighteen hundred and seventy-seven, entitled "An act for the support of the government of the District of

Columbia for the fiscal year ending June thirtieth, eighteen hundred and seventy-eight, and for other purposes," or with other existing laws, prescribe the time or times for the payment of all taxes and duties of assessors and collectors in relation thereto. All taxes collected shall be paid into the Treasury of the United States, and the same, as well as the appropriations to be made by Congress as aforesaid, shall be disbursed for the expenses of said District, on itemized vouchers, which shall have been audited and approved by the auditor of the District of Columbia, certified by said Commissioners, or a majority of them; and the accounts of said Commissioners, and the tax collectors, and all other officers required to account, shall be settled and adjusted by the accounting officers of the Treasury Department of the United States. Hereafter the Secretary of the Treasury shall pay the interest on the three-sixty-five bonds of the District of Columbia issued in pursuance of the act of Congress approved June twentieth, eighteen hundred and seventy-four, when the same shall become due and payable; and all amounts so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia, as hereinbefore provided.

SEC. 7. That the offices of sinking fund commissioners are hereby abolished, and all duties and powers possessed by said commissioners are transferred to and shall be exercised by the Treasurer of the United States, who shall perform the same in accordance with the provisions of existing laws.

AN ACT to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes. Approved June 16, 1880 (c. 243, 21 St., 284).

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*  
That the jurisdiction of the Court of Claims is hereby

extended to, and it shall have original legal and equitable jurisdiction of, all claims now existing against the District of Columbia arising out of contracts made by the late board of public works and extensions thereof made by the Commissioners of the District of Columbia, and such claims as have arisen out of contracts made by the District Commissioners since the passage of the act of June twentieth, eighteen hundred and seventy-four, and of all claims for work done by the order or direction of said Commissioners, and accepted by them for the use, purpose, or benefit of the said District of Columbia, and prior to the fourteenth day of March, eighteen hundred and seventy-six; and all certificates of the auditor of said board of public works, all certificates issued by the auditor and comptroller of the District of Columbia, all claims based on contracts made by the levy court, all sewer certificates, all sewer taxes not heretofore converted into three-sixty-five bonds, all measurements made by the engineers of said District of work done under contracts made since February twenty-first, eighteen hundred and seventy-one, for which no certificates have been issued to and received by the contractor or his assignee, which certificates shall be prima facie evidence of the amount of work done, all claims based upon contracts made by the board of public works for which no evidence of indebtedness has been issued. Said Court of Claims shall have the same power, proceed in the same manner, and be governed by the same rules, in respect to the mode of hearing, adjudication, and determination of said claims, as it now has in relation to the adjudication of claims against the United States. \* \* \*

SEC. 6. The Secretary of the Treasury is hereby authorized to demand of the sinking-fund commissioner of the District of Columbia so many of the three-sixty-five bonds authorized by act of Congress approved June

twentieth, eighteen hundred and seventy-four, and acts amendatory thereof, as may be necessary for the payments of the judgments; and said sinking-fund commissioner is hereby directed to issue and deliver to the Secretary of the Treasury the amount of three-sixty-five bonds required to satisfy the judgments, which bonds shall be received by said claimants at par in payment of such judgments, and shall bear date August first, eighteen hundred and seventy-four, and mature at the same time as other bonds of this issue; *Provided*, That before the delivery of such bonds as are issued in payment of judgments rendered as aforesaid on the claims aforesaid, the coupons shall be detached therefrom from the date of said bonds to the day upon which such claims were due and payable; and the gross amount of such bonds heretofore and hereafter issued shall not exceed in the aggregate fifteen millions of dollars: *Provided*, The bonds issued by authority of this act shall be of no more binding force as to their payment on the Government of the United States than the three sixty-five bonds issued under authority of the act of June twentieth, eighteen hundred and seventy-four.

SEC. 9. That the Treasurer of the United States, as ex officio sinking-fund commissioner of the District of Columbia, is hereby authorized and directed to redeem the outstanding certificates of the late board of audit, created by the act approved June twentieth, eighteen hundred and seventy-four, with the interest accrued on said certificates, by issuing and delivering to the owners or holders of such certificates bonds of the District of Columbia, as provided in section seven of the act approved June twentieth, eighteen hundred and seventy-four, entitled "An act for the government of the District of Columbia, and for other purposes," and acts amendatory thereof, said bonds to bear the same date, same rate of interest, and interest and principal be payable at same



time, and subject to all the conditions, pledges of faith, and exemptions as the bonds authorized to be issued by the said seventh section of said act, and shall be signed by the said Treasurer as ex officio sinking-fund commissioner of the District of Columbia, and numbered, countersigned, sealed, and registered as the said seventh section of said act prescribes, detaching all coupons from said bonds up to the date of such certificates.

## V.

AN ACT making appropriations to provide for the expenses of the government of the District of Columbia. \* \* \* (C. 227, 23 Stat., 123, 131.)

\* \* \* \* \*

That no payment shall be made of any certificate issued by the late board of audit of the District of Columbia under authority of the act approved June twentieth, eighteen hundred and seventy-four, that shall not be presented for payment within one year from the date of the approval of this act; \* \* \*

## VI.

AN ACT to provide for the payment of the eight per centum greenback certificates of the District of Columbia, and for other purposes. (Ch. 279, 28 Stat., 277.)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Treasurer of the United States is hereby directed to pay to the owners, holders, or assignees of all board of audit certificates redeemed by him under the act approved June sixteenth, eighteen hundred and eighty, the residue of two and thirty-five hundredths per centum per annum of unpaid legal-rate interest due upon said certificates from their date up to the date of approval of said act providing for their redemption.

## REVISED STATUTES DISTRICT OF COLUMBIA.

SEC. 713. The rate of interest upon judgments or decrees and upon the loan or forbearance of any money, goods, or things in action shall continue to be six dollars upon one hundred dollars for one year, and after that rate for a greater or less sum or for a longer or shorter time, except as provided in this chapter.



